

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PAVON EMILIO,

Plaintiff,

v.

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES,
FRED BRITTEN, Warden, TAN,
Case Manager, and SAWYER, Case
Worker, et al.,

Defendants.

4:17CV3027

**MEMORANDUM
AND ORDER**

Plaintiff has filed correspondence with the court (Filing [9](#)) objecting to the court's previous order (Filing [6](#)) to pay the \$400.00 filing fee or submit a request to proceed in forma pauperis within 30 days. Plaintiff believes he does not owe the \$400.00 filing fee because he has filed a declaratory judgment action with a request for injunctive relief—not a lawsuit under 42 U.S.C. § 1983—and the filing fee for a declaratory judgment action is only \$35.00. Plaintiff states that “the legal documents filed do not amount to a motion for a 1983 legal action nor did I inten[d] to file such at this time.” (Filing [9](#).)

Plaintiff's correspondence, construed as a motion, shall be denied because [28 U.S.C. § 1915](#)—which allows prisoners to file civil actions “without prepayment of fees or security therefor,” but which requires that the full amount of the filing fee be paid in installments—is applicable to “*any* suit, action or proceeding, civil or criminal.” [28 U.S.C. § 1915\(a\)\(1\)](#) (emphasis added). Under the terms of the statute, the nature of Plaintiff's lawsuit is irrelevant to his duty to pay the filing fee. Simply put, there is no “discount” for declaratory judgment actions.

Accordingly,

IT IS ORDERED that:

1. Plaintiff's correspondence with the court (Filing [9](#)), construed as a motion, is denied;
2. To continue with this lawsuit, Plaintiff is directed to submit the \$400.00 filing fee to the Clerk of Court's office or submit a request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice; and
3. The Clerk of Court is directed to set a pro se case management deadline in this matter with the following text: April 21, 2017: Check for MIFP or payment.

DATED this 20th day of March, 2017.

BY THE COURT:

s/ Richard G. Kopf

Senior United States District Judge